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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/813,732	04/01/2004	Gerald W. Napoli	1961090	5091

22824 7590 09/22/2005

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EXAMINER
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NAGY, MARC I

ART UNIT	PAPER NUMBER
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3748

DATE MAILED: 09/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/813,732	<b>Applicant(s)</b> NAPOLI, GERALD W.	
	<b>Examiner</b> Marc I. Nagy	<b>Art Unit</b> 3748	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 April 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>08312005</u> | 6) <input type="checkbox"/> Other: ____  |

## **DETAILED ACTION**

### ***Information Disclosure Statement***

1. The information disclosure statement (IDS) submitted on 04/01/2004 is acknowledged. The submission is in compliance with the provisions of 37 CFR 1.97 and 1.98. Accordingly, the information disclosure statement is being considered by the examiner.

### ***Drawings***

2. The drawing is objected to under 37 CFR 1.83(a) because it fails to show the clamp unit (50) and filter media (60) as described in the specification. The clamp unit and filter media in the drawing must be displayed in plain view and not hidden. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d).

3. The drawing is objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "60" has been used to designate both "filter media" and "fresh media".

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and

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appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

The disclosure is objected to because of the following informalities:

4. On page 4, line 7, "drawings" should be singular, and thus read as "drawing".

Appropriate correction is required.

The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

5. The following title is suggested: Exhaust Filtering Device Attachable to Internal Combustion Engine Tailpipe.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

6. Claim 1 is rejected under 35 U.S.C. 112, first paragraph, as based on a disclosure which is not enabling. A detailed description of the filter media 60 is critical or essential to the practice of the invention, but not included in the detailed description

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in the specification. The applicant has stated that the filter utilized in the instant invention "is of the type found in exhaust treatment devices." However, there are many different types of filter media used in exhaust treatment devices: glass wool, ceramic, metallic, etc. The applicant must disclose the specific type of filter media required. No new matter may be entered.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claim 1 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by Bechtel (U.S. Patent No. 2,524,588).

Bechtel discloses an exhaust treatment device including a tailpipe of an automotive vehicle (exhaust pipe 22), a filter unit which includes a cylindrical housing (metal cylindrical casing 15), a first end which is a proximal end (23) and a second end which is a distal end (17), a plurality of exhaust holes defined through the cylindrical housing and located adjacent to the second end of the cylindrical housing (apertures 16), a clamp unit (collar 11, metal band 12, screw 13), and filter media (fine gauge wire screening 18).

8. Claim 1 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by Holt et al (U.S. Patent No. 2,620,893).

Holt et al discloses a filter for exhaust pipes of internal-combustion engines including a tailpipe of an automotive vehicle (exhaust pipe 11), a filter unit (10) which includes a cylindrical housing (cylindrical shell 12), a first end which is a proximal end (27) and a second end which is a distal end (23), a plurality of exhaust holes defined through the cylindrical housing and located adjacent to the second end of the cylindrical housing (wire screen 22), a clamp unit (annular seal as a means for supporting or mounting the filter unit 25), and filter media (expendable blotter 14, steel wool 30).

9. Claim 1 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by Giarrizzo (U.S. Patent No. 3,675,398).

Giarrizzo discloses an exhaust filter attachment including a tailpipe of an automotive vehicle (vehicle exhaust pipe 11), a filter unit (vehicle exhaust filter attachment 10) which includes a cylindrical housing (main sleeve housing 13), a first end which is a proximal end (23) and a second end which is a distal end (52), a plurality of exhaust holes defined through the cylindrical housing and located adjacent to the second end of the cylindrical housing (mesh disk 53), a clamp unit (band clamp 18), and filter media (first filter element 24, second filter element 32, charcoal filter device 44).

### ***Conclusion***


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marc I. Nagy whose telephone number is 571-272-2758. The examiner can normally be reached on Monday - Friday 8 a.m. - 4:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas E. Denion can be reached on 571-272-4859. The fax phone

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number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
THOMAS DENION  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700